

### REMARKS

The present application includes pending claims 1-31, all of which have been rejected. Claims 1, 11 and 21 have been amended. New claims 32-46 have been added.

Claims 1-31 stand rejected under 35 U.S.C. 102(b) as being unpatentable over US Patent 6,240,555 ("Shoff") in view of U.S. 6,735,487 ("Marshall"). The Applicant respectfully traverses these rejections for at least the following reasons.

Claim 1 recites, in part, "delivering said announcement along with the broadcast television program for display on a television screen within said home, wherein said announcement is displayed on said television screen without any input from said user, ~~and~~ said announcement is independent of media content that is being displayed on said television screen at the time of said announcement, and said announcement is delivered based on a profile of said user." Independent claims 11 and 21 recite similar limitations.

The Office Action indicates that Shoff does not disclose "said announcement is independent of media content that is being displayed on said television screen at the time of said announcement." See May 4, 2009 Office Action at page 4. The Office Action relies on Marshall to remedy the deficiencies of Shoff. See *id.*

Marshall discloses "systems and method that alert users who are watching a television channel of the presence of an interactive wagering service." See Marshall at column 2, lines 6-10. In particular, the "wagering application may present the user with notifications or promotions related to wagering while the user is watching television."

See *id.* at column 18, lines 23-26. “If desired, message 48 may be displayed whenever the content of video 50 relates to racing.” See *id.* at column 18, lines 46-47.

Marshall does not describe, teach or suggest, however, “delivering said announcement along with the broadcast television program for display on a television screen within said home, wherein said announcement is displayed on said television screen without any input from said user, ~~and~~ said announcement is independent of media content that is being displayed on said television screen at the time of said announcement, and **said announcement is delivered based on a profile of said user,**” as recited in claim 1, for example. Because Shoff does not describe, teach or suggest such an “announcement,” Shoff also cannot, by definition, describe, teach or suggest delivering such an announcement based on a user profile. Therefore, neither Shoff nor Marshall, alone or in combination with one another, describes, teaches or suggests all the limitations of the claims. For at least these reasons, the Applicant respectfully requests reconsideration of the rejection of claims.

The Applicant also respectfully submits that Marshall does not describe, teach or suggest the limitations of new claims 32-46. The fee for these new claims is calculated as follows:

$$\begin{aligned} &15 \text{ additional dependent claims in excess of } 20 \\ &\quad \times \$52 \text{ per claim} \\ &\quad = \$780 \end{aligned}$$

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the

Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicant respectfully requests reconsideration of the claim rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, including the \$810 fee for the Request for Continued Examination and the \$780 fee for 15 new dependent claims, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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